



Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of

Restoring Internet Freedom

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WC Docket No. 17-108

Reply Comments of APAICS, NQAPIA and OCA

The Asian Pacific American Institute of Congressional Studies (“APAICS”), National Queer Asian Pacific Islander Alliance (“NQAPIA”), and OCA – Asian Pacific American Advocates (“OCA”) are non-profit, civil rights organizations that represent over 100 chapters and organizations nationwide. NQAPIA and OCA strongly support the protection of net neutrality principles regulated under Section 706 of the Telecommunications Act of 1996 (“706”).

We respectfully submit reply comments in support of the “Comments of the National Multicultural Organizations”¹ with regards to the Federal Communication Commission’s (“Commission”) Notice of Proposed Rulemaking (“NPRM”). In particular, we reiterate the National Multicultural Organizations’ (“NMO”) argument for a comprehensive, bipartisan legislative solution that enshrines no blocking, no throttling, and no discrimination rules. Additionally, in lieu of legislation, we also reiterate their request for the Commission to protect the bright line rules using its authority under 706.

A CONGRESSIONAL SOLUTION IS NECESSARY TO PERMANENTLY ENSURE INTERNET OPENNESS

Asian American and Pacific Islanders (“AAPI”) cannot continue to be caught between the net neutrality whims of the different Commissions. Congress should permanently enshrine net neutrality principles in law to provide the Commission with explicit regulatory authority to enact bright line rules that also incentivize broadband network expansion and advancement. As the NMO comments mentioned, a statutory solution must be bipartisan and include requirements for no blocking, no throttling, and no unreasonable discrimination; strong transparency and privacy rules; and language prohibiting redlining and strengthening the Lifeline program.²

The current regulations under which the Commission has regulated net neutrality is insufficient. Although 706 provides the Commission with the necessary authority to ensure an open Internet, the threat of a different interpretation of the law looms whenever there is a change in the

¹ National Multicultural organizations; WC Docket. 17-108. Retrieved from <https://www.fcc.gov/ecfs/filing/107180282417781>.

² Id. at 1.

chairmanship. Additionally, the outdated and inappropriate language under Title II only stifles innovation and potentially network expansion. The American Society of Civil Engineers already scored the United States' infrastructure at a D+. ³ Regulating the Internet as a public utility, like the way much of our country's infrastructure is regulated, would only harm the immense progress that has been made.

A bipartisan solution that encompasses the above will be able to ensure statute is up-to-date with modern communications networks, ensure that the Commission has explicit authority to protect an open Internet, and promote a consumer's ability to access quality, affordable broadband regardless of location.

SECTION 706 ALLOWS FOR AN OPEN INTERNET AND PROVIDES ASIAN AMERICAN AND PACIFIC ISLANDER CONSUMERS ACCESS TO AFFORDABLE BROADBAND

In the absence of an immediate congressional solution, the Commission must invoke its authority under 706 to enact strong net neutrality rules. Open Internet rules must ensure that low-income, minority communities can access quality, affordable broadband. The rules must not delay the expansion of networks into rural, low-income, and/or island areas. Only 706 currently provides the Commission with authority to prevent blocking, throttling, and commercially unreasonable discrimination, ⁴ and to promote transparency without creating a de facto permanent climate of ambiguity. AAPI consumers benefit when Internet Service Providers are incentivized to continue building their networks and innovating new affordable ways to access the Internet.

The AAPI community includes over 50 ethnic groups and 100 languages that currently comprise 5.8% of the United States population. Our community is the fastest growing US racial/ethnic group, with a growth rate of 2.9%, fueled mostly by immigration. ⁵ In June 2013, the National Telecommunications and Information Administration ("NTIA") also reported that Asian households exhibited the highest rates of home computer ownership (86%) and broadband service (81%) when compared to other populations. ⁶ Despite these findings, there are some AAPIs who are still offline, particularly within certain Asian American ethnic pockets. ⁷

As OCA mentioned in their comments on Lifeline, despite high Internet adoption rates, many Asian American communities still remain unable to access the Internet because of the high cost of service. ⁸ NTIA has reported that "lower income families, people with less education...generally lagged the national average in both broadband adoption and computer use." ⁹ Given that income, education level, and language proficiency are indicators of broadband

³ The American Society of Civil Engineers (2017). *2017 Infrastructure Scorecard*. Retrieved from <http://www.infrastructurereportcard.org/>.

⁴ *Verizon v. FCC*, 740 F.3d 623 (D.C. Cir. 2014) ("Verizon").

⁵ Pew Research Center (June 2014). *U.S. Hispanic and Asian Populations Growing, but For Different Reasons*. Retrieved from <http://www.pewresearch.org/fact-tank/2014/06/26/u-s-hispanic-and-asian-populations-growing-but-for-different-reasons/>.

⁶ NTIA (June 2013). *Exploring the Digital National: America's Emerging Online Experience*. Retrieved from https://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_-_americas_emerging_online_experience.pdf.

⁷ OCA – Asian Pacific American Advocates; WC Docket No. 11-42. Retrieved from <http://apps.fcc.gov/ecfs/comment/view?id=60001198933>.

⁸ *Id.* at 6.

⁹ NTIA (November 2011). *Exploring the Digital National: Computer and Internet Use at Home*. Retrieved from https://www.ntia.doc.gov/files/ntia/publications/exploring_the_digital_nation_computer_and_internet_use_at_home_11092011.pdf.

adoption and in light of the lack of disaggregated Asian American and overall Pacific Islander broadband adoption data, we can deduce that despite the available data, many AAPIs still lack access to modern, advanced communications networks and services.

For the record, AAPI socioeconomic levels and educational attainment rates are diverse.¹⁰ And it is the lack of disaggregated Asian American data that mask disparities between various Asian ethnic groups, making it difficult to ascertain the existing state of broadband adoption within the AAPI community. Contrary to popular belief, Asian American communities encompass some of the highest and lowest rates of poverty and highest and lowest rates of academic achievement among all ethnic groups in the United States.¹¹ Additionally, Guam, American Samoa, and the Northern Mariana Islands have some of the most expensive and slowest Internet services in the United States.

Title II created a climate of permanent ambiguity, harming investment, and potentially slowing network buildout. By creating strong net neutrality rules under Section 706, the Commission can ensure that companies are incentivized to build out networks into underserved areas rather than be forced to delay projects due to vague regulations. As such, we reiterate our support for the NMO's comments regarding Section 706.

CONCLUSION

Bipartisan congressional legislation is the only permanent and stable solution to ensure net neutrality principles are soundly protected. However, until that happens, it is imperative that the Commission listens to the very real way consumers will be affected without any bright line rules. We echo the sentiments of our colleagues in the civil rights community and urge the Commission to utilize its Section 706 authority to create strong, enforceable net neutrality rules while encouraging broadband Internet expansion.

Respectfully submitted,

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¹⁰ According to a report by the National Coalition for Asian Pacific American Community Development (National CAPACD), almost 2 million AAPIs live at or below the poverty line the United States. And though Southeast Asian Americans have some of the highest rates of poverty among all racial and ethnic groups in the United States, Chinese and Indian Americans have the highest absolute number of individuals living in poverty at 449,356 and 246,399 respectively.

¹¹ Asian Americans Advancing Justice (2011). *A Community of Contrasts, Asian Americans in the United States: 2011*. Retrieved from <http://www.advancingjustice.org/sites/default/files/CoC%20National%202011.pdf>. Oftentimes, aggregated data will lump information regarding recent refugees, such as the Burmese and Karen, with more affluent and well-established Taiwanese and Japanese American datasets. Recent migrants, among those in greatest need of assistance, are statistically hidden by higher achieving second, third and fourth generation AAPIs.